

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE: GALLERIA 2425 OWNER, LLC Debtor	§ § §	Case No. 23-34815 (JPN)
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ALI CHOUDHRI, <i>Plaintiff,</i> v. NATIONAL BANK OF KUWAIT, S.A.K.P., NEW YORK BRANCH, <i>Defendants.</i>	§ § § § § § § § § §	CAUSE NO. 4:24-cv-03198 ADV. PROC. 24-03120
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**NATIONAL BANK OF KUWAIT, S.A.K.P., NEW YORK BRANCH’S COUNTER-
STATEMENT OF ISSUES PRESENTED AND DESIGNATION OF ADDITIONAL
ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL**

Pursuant to Rule 8009 of the Federal Rules of Bankruptcy Procedure, Appellee National Bank of Kuwait S.A.K.P., New York Branch (“Appellee”) hereby submits this counter-statement of the issues presented and designation of additional items to be included in the record on appeal (“Appellee’s Additional Designation”).¹

COUNTER-STATEMENT OF ISSUES PRESENTED ON APPEAL

1. Whether the Bankruptcy Court properly determined that Appellee’s removal of Ali Choudhri’s (“Appellant”) state court action was timely where it was undisputed that Appellee

¹ This Appellee’s Additional Designation is timely filed by Appellee even though this filing is more than 14 days after appellant filed his Designation of Record and Issues on Appeal. (“Appellant’s Designation”) [Bankr. Adv. Docket No. 33]. On September 5, 2024, Appellant filed Appellant’s Designation in the Bankruptcy Court. Pursuant to Rule 8009(a)(2), Appellee was required to file its designation of additional items to be included in the record on appeal by September 19, 2024. However, on September 11, 2024, this Court dismissed the appeal because of Appellant’s failure to prosecute the appeal. [Dkt. No. 3]. On November 13, 2024, the Court reinstated the appeal [Dkt. No. 11], and Appellee therefore now files this Appellee’s Additional Designation.

had not at any time been served with a copy of the summons or complaint. *See Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.* 526 U.S. 344 (1999) (a named defendant's time to remove a state court action to a federal court is triggered by the simultaneous service of the summons and complaint, or receipt of the complaint, "through service or otherwise," after and apart from service of the summons, but not by the mere receipt of the complaint unattended by any formal service).

2. Whether the Bankruptcy Court properly determined that it had core jurisdiction over the subject action in which Appellant asserts ownership of certain assets – tax liens – where the confirmed plan (the "Plan") provides that Appellee has allowed claims for the tax liens based on its ownership of those assets and further provides that the Bankruptcy Court retains jurisdiction over all matters relating to, *inter alia*, interpretation and implementation of the Plan.

3. Whether the Bankruptcy Court properly dismissed Appellant's complaint on the merits where the confirmed Plan determined, among other things, ownership of the subject tax liens and where Appellant did not object to confirmation of the Plan and did not appeal the Bankruptcy Court's order confirming the Plan.

4. Whether the Bankruptcy Court properly dismissed Appellant's complaint where the claims in the complaint are each based on an asserted breach by Appellee of a Confidential Settlement Agreement (the "CSA") between the parties, but where the Bankruptcy Court had previously determined that Appellant, not Appellee, breached the CSA by failing to comply with its terms.

**DESIGNATION OF ADDITIONAL ITEMS
TO BE INCLUDED IN THE RECORD ON APPEAL**

Main Bankruptcy Docket Items (Case No. 23-34815 (JPN))

Item No.	Docket No.	Filing Date	Item Description
13	270	05/03/2024	Amended Objection to Claims of National Bank of Kuwait.
14	353	05/20/2024	Motion for Entry of Order Prohibiting Credit Bidding by National Bank of Kuwait S.A.K.P., New York Branch Pursuant to 11 U.S.C. § 363(k).
15	403	06/03/2024	Trustee's Omnibus Objection to Claim Nos. 21 and 22 of Ali Choudhri
16	534	06/17/2024	Trustee's Objection to Motion to Authorize Creditor to Pursue Claims on Behalf of the Estate
17	535	06/17/2024	Order Denying Motion to Prohibit Credit Bidding
18	565	06/22/2024	Memorandum Opinion Relating to Confirmation of Chapter 11 Plan of the Debtor filed by National Bank of Kuwait, S.A.K.P., New York Branch
19	566	06/22/2024	Order Confirming Chapter 11 Plan of Liquidation of the Debtor by National Bank of Kuwait, S.A.K.P New York Branch
20	588	07/03/2024	Order Granting Amended Motion to Alter or Amend Order in Part
21	640	07/22/2024	Agreed Order on Trustee's Claim Objection No. 21 of Ali Choudhri (Tax Liens)
			Transcript of June 17, 2024 Hearing on 2425 WL's Motion to Prohibit NBK from Credit Bidding
			Transcript of June 19, 2024 Hearing on Confirmation of Chapter 11 Plan of Liquidation of the Debtor by National Bank of Kuwait, S.A.K.P New York Branch

CERTIFICATION REGARDING TRANSCRIPTS

Pursuant to Bankruptcy Rule 8009(b)(1), Appellee certifies that they are not ordering any transcripts. All transcripts have been prepared and are designated in Appellant's Designation or in this Appellee's Additional Designation.

RESERVATION OF RIGHTS

Appellee reserves the right to withdraw, supplement, amend or modify this designation of additional items to be included in the record on appeal. This filing is made expressly subject to, and without waiver of any and all rights, remedies, challenges, and objections.

DATED: November 15, 2024

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CERTIFICATE OF SERVICE

I hereby certify that, on November 15, 2024, a true and correct copy of this document was served via the Court's CM/ECF system on the Chapter 11 Trustee, Appellant's counsel of record and all others who are deemed to have consented to ECF electronic service in this Appeal, and also by mailing, first class, postage prepaid, to each of the parties on the below service list.

/s/ Charles C. Conrad

Charles C. Conrad

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